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09/838,185	04/20/2001	Ikuo Sakaguchi	NEC-F98/USA	1577
466	7590	12/28/2006	EXAMINER	
YOUNG & THOMPSON			CHENCINSKI, SIEGFRIED E	
745 SOUTH 23RD STREET			ART UNIT	PAPER NUMBER
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ARLINGTON, VA 22202				
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**MAILED**

Application Number: 09/838,185

DEC 28 2006

Filing Date: April 20, 2001

Appellant(s): SAKAGUCHI, IKUO

**GROUP 3600**

Thomas W. Perkins, Reg. No. 33,027  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the Office Action mailed January 13, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

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**(8) Evidence Relied Upon**

Joao et al.                    US Patent 5,878,337

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 8 is rejected** under 35 U.S.C. 102(b) as being anticipated by Joao et al. (US Patent 5,878,337, hereafter Joao).

**Re. Claim 8,** Joao anticipates a card utilization approval method, comprising in order the steps of:

- during a purchase transaction at a point of sale using a card, reading card information at a payment processing terminal and transmitting the card information and purchase transaction data to a card authentication and settlement processing device (Col. 3, I. 62 – Col. 4, II. 3, 31-35; Col. 5, II. 20-25);
- at the card authentication and settlement processing device, determining an identity of a responsible card holder and a mobile device address of the responsible card holder based on the card information (Col. 27, II. 60-62; Col. 32, II. 39-49);

- before determining whether an account of the responsible card holder can settle the purchase transaction, transmitting the purchase transaction data from the card authentication and settlement processing device to the mobile device address of the responsible card holder (Abstract – II. 1-11; Col. 4, I. 62 - Col. 5, I. 2; Col. 6, II. 4-43; Col. 10, I. 64 - Col. 11, I. 30);
- at the mobile device of the responsible card holder, receiving the purchase transaction data, determining whether to authorize the purchase transaction, and informing the card authentication and settlement processing device of the determination whether to authorize the purchase transaction (Col. 6, II. 44-61); and
- at the card authentication and settlement processing device, if the purchase transaction is authorized by the mobile device of the responsible card holder, determining whether the account of the responsible card holder can settle the purchase transaction, and informing both the mobile device of the responsible card holder and the payment processing terminal whether the account of the responsible card holder can settle the purchase transaction (Col. 7, II. 29-34; Col. 8, II. 19-22; Col. 8, I. 67 – Col. 9, I. 5).

#### **(10) Response to Argument**

Appellant's sole argument is that Joao does not teach the first part of claim 8's element (c), "before determining whether an account of the responsible card holder can settle the purchase transaction, transmitting the purchase transaction data from the card authentication and settlement processing device to the mobile device address of the responsible card holder". The argument asserts that Joao's teaching that the timing of

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the transmission to the card holder's mobile device is only made after making the determination "whether an account of the responsible card holder can settle the purchase transaction". In actual fact, Joao teaches both options. The option to make the determination before making said determination is found in Joao, Col. 10, I. 64 through Col. 11, I. 30. Col. 10, I. 67 through Col. 11, I. 4 teaches "The apparatus and method of the present invention may provide for an immediate, as well as for a deferred, authorization, notification and/or security in any of the above described financial transactions and/or wireless communications transactions". Col. 11, II. 16-24 teaches "Accordingly, it is an object of the present invention to provide an apparatus and a method for providing authorization, notification and/or security in financial transactions involving credit cards, charge cards, debit cards, and/or currency or "smart" cards, savings accounts, checking accounts and/or automated teller machine accounts and for providing authorization, notification and/or security in wireless communications transactions involving cellular telephones and/or other cellular communications devices.". Col. 11, II. 25-30 teaches "It is another object of the present invention to provide an apparatus and a method for providing authorization, notification and/or security in financial transactions involving credit cards, charge cards, debit cards, wherein the cardholder may authorize or disapprove of a transaction, in real time.". Therefore, Joao teaches all of the limitations of claim 8.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Siegfried E. Chencinski

Patent Examiner

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